



Reprinted
March 24, 2009

ENGROSSED SENATE BILL No. 388

DIGEST OF SB 388 (Updated March 23, 2009 4:34 pm - DI 51)

Citations Affected: IC 6-1.1; IC 12-29; noncode.

Synopsis: Property tax levies for mental health services. Permits a county that wants to impose a property tax levy for the first time after 2008 for a community mental health center or a community mental retardation and other developmental disabilities center to submit a first year budget for approval by the department of local government finance. Provides that the first year levy for the approved budget is outside the property tax levy limit. Increases the circuit breaker property tax credit that applies to property taxes first due and payable in 2009.

Effective: January 1, 2009 (retroactive); upon passage.

Broden, Skinner, Randolph

(HOUSE SPONSORS — PELATH, BORROR)

January 8, 2009, read first time and referred to Committee on Appropriations.
February 19, 2009, amended, reported favorably — Do Pass.
February 23, 2009, read second time, ordered engrossed. Engrossed.
February 24, 2009, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

March 5, 2009, read first time and referred to Committee on Rules and Legislative Procedures.
March 16, 2009, reassigned to Committee on Ways and Means pursuant to Rule 127.
March 17, 2009, reported — Do Pass.
March 23, 2009, read second time, amended, ordered engrossed.

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ES 388—LS 6651/DI 51+



First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 388

A BILL FOR AN ACT to amend the Indiana Code concerning
taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-18.5-10, AS AMENDED BY P.L.146-2008,
2 SECTION 174, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 10. (a)
4 ~~Subject to subsection (d);~~ The ad valorem property tax levy limits
5 imposed by section 3 of this chapter do not apply to ad valorem
6 property taxes imposed by a civil taxing unit to be used to fund:
7 (1) community mental health centers under:
8 (A) IC 12-29-2-1.2, for only those civil taxing units that
9 authorized financial assistance under IC 12-29-1 before 2002
10 for a community mental health center as long as the tax levy
11 under this section does not exceed the levy authorized in 2002;
12 (B) IC 12-29-2-2 through IC 12-29-2-5; and
13 (C) IC 12-29-2-13; or
14 (2) community mental retardation and other developmental
15 disabilities centers under IC 12-29-1-1;
16 to the extent that those property taxes are attributable to any increase
17 in the assessed value of the civil taxing unit's taxable property caused

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by a general reassessment of real property that took effect after February 28, 1979.

(b) ~~Subject to subsection (d)~~; For purposes of computing the ad valorem property tax levy limits imposed on a civil taxing unit by section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular calendar year does not include that part of the levy described in subsection (a).

(c) This subsection applies to property taxes first due and payable after December 31, 2008. Notwithstanding subsections (a) and (b) or any other law, any property taxes imposed by a civil taxing unit that are exempted by this section from the ad valorem property tax levy limits imposed by section 3 of this chapter may not increase annually by a percentage greater than the result of:

(1) the assessed value growth quotient determined under section 2 of this chapter; minus

(2) one (1).

~~(d) The exemptions under subsections (a) and (b) from the ad valorem property tax levy limits do not apply to a civil taxing unit that did not fund a community mental health center or community mental retardation and other developmental disabilities center in 2008.~~

(d) For a county that did not impose an ad valorem property tax levy before January 1, 2009, for the county general fund to provide financial assistance under IC 12-29-1 (community mental retardation and other developmental disabilities center) or IC 12-29-2 (community mental health center), the levy limits do not apply to the part of the county's general fund that is used in the first ensuing calendar year to provide financial assistance under IC 12-29-1 or IC 12-29-2. The department of local government finance shall review a county's proposed budget that is submitted under IC 12-29-1-1 or IC 12-29-2-1.2 and make a final determination of the county's financial assistance budget for the first ensuing calendar year.

SECTION 2. IC 6-1.1-20.6-7, AS AMENDED BY P.L.146-2008, SECTION 222, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 7. (a) This subsection expires January 1, 2009. In the case of a credit authorized under section 6 of this chapter or provided by section 6.5(a) or 6.5(b) of this chapter for property taxes first due and payable in a calendar year:

(1) a person is entitled to a credit against the person's property tax liability for property taxes first due and payable in that calendar year attributable to:

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1 (A) the person's qualified residential property located in the
 2 county, in the case of a calendar year before 2008; or
 3 (B) the person's homestead. (as defined in IC 6-1.1-20.9-1)
 4 property located in the county, in the case of a calendar year
 5 after 2007 and before 2009; and
 6 (2) the amount of the credit is the amount by which the person's
 7 property tax liability attributable to:
 8 (A) the person's qualified residential property, in the case of a
 9 calendar year before 2008; or
 10 (B) the person's homestead property, in the case of a calendar
 11 year after 2007 and before 2009;
 12 for property taxes first due and payable in that calendar year exceeds
 13 two percent (2%) of the gross assessed value that is the basis for
 14 determination of property taxes on the qualified residential property (in
 15 the case of a calendar year before 2008) or the person's homestead
 16 property (in the case of a calendar year after 2007 and before 2009) for
 17 property taxes first due and payable in that calendar year, as adjusted
 18 under subsection (b).
 19 (b) This subsection expires January 1, 2009. This subsection applies
 20 to property taxes first due and payable in 2008. The amount of a credit
 21 to which a person is entitled under subsection (a) in a county shall be
 22 determined without including a taxpayer's property tax liability for
 23 tuition support. Notwithstanding any other provision of this chapter, a
 24 school corporation's tuition support property tax levy collections may
 25 not be reduced because of a credit under this chapter.
 26 (c) This subsection ~~applies to property taxes first due and payable~~
 27 ~~in~~ **expires January 1, 2009**. A person is entitled to a credit against the
 28 person's property tax liability for property taxes first due and payable
 29 in 2009. The amount of the credit is the amount by which the person's
 30 property tax liability attributable to the person's:
 31 (1) homestead exceeds one and five-tenths percent (1.5%);
 32 (2) residential property exceeds two and five-tenths percent
 33 (2.5%);
 34 (3) long term care property exceeds two and five-tenths percent
 35 (2.5%);
 36 (4) agricultural land exceeds two and five-tenths percent (2.5%);
 37 (5) nonresidential real property exceeds three and five-tenths
 38 percent (3.5%); or
 39 (6) personal property exceeds three and five-tenths percent
 40 (3.5%);
 41 of the gross assessed value of the property that is the basis for
 42 determination of property taxes for that calendar year.

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(d) This subsection ~~applies to property taxes first due and payable in~~ **expires January 1, 2009**. Property taxes imposed after being approved by the voters in a referendum or local public question shall not be considered for purposes of calculating a person's credit under this section.

(e) This subsection ~~applies to property taxes first due and payable in~~ **expires January 1, 2009**. As used in this subsection, "eligible county" means only a county for which the general assembly determines in 2008 that limits to property tax liability under this chapter are expected to reduce in 2010 the aggregate property tax revenue that would otherwise be collected by all units of local government and school corporations in the county by at least twenty percent (20%). Property taxes imposed in an eligible county to pay debt service or make lease payments for bonds or leases issued or entered into before July 1, 2008, shall not be considered for purposes of calculating a person's credit under this section.

SECTION 3. IC 6-1.1-20.6-7.5, AS ADDED BY P.L.146-2008, SECTION 223, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 7.5.(a) A person is entitled to a credit against the person's property tax liability for property taxes first due and payable after ~~2009: 2008~~. The amount of the credit is the amount by which the person's property tax liability attributable to the person's:

- (1) homestead exceeds one percent (1%);
- (2) residential property exceeds two percent (2%);
- (3) long term care property exceeds two percent (2%);
- (4) agricultural land exceeds two percent (2%);
- (5) nonresidential real property exceeds three percent (3%); or
- (6) personal property exceeds three percent (3%);

of the gross assessed value of the property that is the basis for determination of property taxes for that calendar year.

(b) This subsection applies to property taxes first due and payable after ~~2009: 2008~~. Property taxes imposed after being approved by the voters in a referendum or local public question shall not be considered for purposes of calculating a person's credit under this section.

(c) This subsection applies to property taxes first due and payable after ~~2009: 2008~~. As used in this subsection, "eligible county" means only a county for which the general assembly determines in 2008 that limits to property tax liability under this chapter are expected to reduce in 2010 the aggregate property tax revenue that would otherwise be collected by all units of local government and school corporations in the county by at least twenty percent (20%). Property taxes imposed in

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an eligible county to pay debt service or make lease payments for bonds or leases issued or entered into before July 1, 2008, shall not be considered for purposes of calculating a person's credit under this section.

SECTION 4. IC 12-29-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]:

Sec. 1. (a) The county executive of a county may authorize the furnishing of financial assistance to a community mental retardation and other developmental disabilities center that is located or will be located in the county.

(b) Assistance authorized under this section shall be used for the following purposes:

(1) Constructing a center.

(2) Operating a center.

(c) Upon request of the county executive, the county fiscal body may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in subsection (b). The appropriation may not exceed the amount that could be collected from an annual tax levy of not more than three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) of taxable property within the county.

(d) If a county did not provide financial assistance under this chapter before January 1, 2009, the county may propose a financial assistance budget for an ensuing calendar year. The county shall refer its proposed budget for the first calendar year to the department of local government finance before the tax levy is advertised. The budget for the first calendar year is subject to review and approval under IC 6-1.1-18.5-10.

SECTION 5. IC 12-29-2-1.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]:

Sec. 1.2. (a) The county executive of a county may authorize the furnishing of financial assistance for the purposes described in subsection (b) to a community mental health center that is located or will be located:

(1) in the county;

(2) anywhere in Indiana, if the community mental health center is organized to provide services to at least two (2) counties, including the county executive's county; or

(3) in an adjacent state, if the center is organized to provide services to Indiana residents, including residents in the county executive's county.

If a community mental health center is organized to serve more than

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one (1) county, upon request of the county executive, each county fiscal body may appropriate money annually from the county's general fund to provide financial assistance for the community mental health center.

(b) Assistance authorized under this section shall be used for the following purposes:

(1) Constructing a community mental health center.

(2) Operating a community mental health center.

(c) The appropriation from a county authorized under subsection (a) may not exceed the following:

~~(1) For 2004, the product of the amount determined under section 2(b)(1) of this chapter multiplied by one and five hundred four thousandths (1.504).~~

~~(2) for 2005 and each year thereafter, the product of the amount determined under section 2(b)(2) of this chapter for that year multiplied by one and five hundred four thousandths (1.504).~~

(d) If a county did not provide financial assistance under this chapter before January 1, 2009, the county may propose a financial assistance budget for an ensuing calendar year. The county shall refer its proposed budget for the first calendar year to the department of local government finance before the tax levy is advertised. The budget for the first calendar year is subject to review and approval under IC 6-1.1-18.5-10.

SECTION 6. [EFFECTIVE UPON PASSAGE] The department of local government finance may adopt temporary rules under this SECTION in the manner provided under IC 4-22-2-37.1 for the adoption of emergency rules to implement IC 6-1.1-20.6-7 and IC 6-1.1-20.6-7.5, both as amended by this act. The rules may include authority for a county auditor to reconcile any difference in the tax liability imposed on property in a year that results from the amendments made to IC 6-1.1-20.6-7 and IC 6-1.1-20.6-7.5 by this act on a separate billing for an installment under IC 6-1.1-7-7 or 6-1.1-22-9 or a reconciling statement under IC 6-1.1-22.5-12. Notwithstanding IC 4-22-2-37.1, a temporary rule adopted under this SECTION expires on the earliest of the following dates:

(1) The date specified in the temporary rule.

(2) The date on which another temporary rule adopted under this SECTION or a permanent rule adopted under IC 4-22-2 supersedes or repeals the earlier adopted temporary rule.

(3) December 1, 2010.

SECTION 7. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 388, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, reset in roman lines 8 through 16.

Page 2, between lines 20 and 21, begin a new paragraph and insert:

"(d) For a county that did not impose an ad valorem property tax levy before January 1, 2009, for the county general fund to provide financial assistance under IC 12-29-1 (community mental retardation and other developmental disabilities center) or IC 12-29-2 (community mental health center), the levy limits do not apply to the part of the county's general fund that is used in the first ensuing calendar year to provide financial assistance under IC 12-29-1 or IC 12-29-2. The department of local government finance shall review a county's proposed budget that is submitted under IC 12-29-1-1 or IC 12-29-2-1.2 and make a final determination of the county's financial assistance budget for the first ensuing calendar year.

SECTION 2. IC 12-29-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]:

Sec. 1. (a) The county executive of a county may authorize the furnishing of financial assistance to a community mental retardation and other developmental disabilities center that is located or will be located in the county.

(b) Assistance authorized under this section shall be used for the following purposes:

- (1) Constructing a center.
- (2) Operating a center.

(c) Upon request of the county executive, the county fiscal body may appropriate annually from the county's general fund the money to provide financial assistance for the purposes described in subsection (b). The appropriation may not exceed the amount that could be collected from an annual tax levy of not more than three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) of taxable property within the county.

(d) If a county did not provide financial assistance under this chapter before January 1, 2009, the county may propose a financial assistance budget for an ensuing calendar year. The county shall refer its proposed budget for the first calendar year to the department of local government finance before the tax levy is advertised. The budget for the first calendar year is subject to

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review and approval under IC 6-1.1-18.5-10.

SECTION 3. IC 12-29-2-1.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]:
Sec. 1.2. (a) The county executive of a county may authorize the furnishing of financial assistance for the purposes described in subsection (b) to a community mental health center that is located or will be located:

- (1) in the county;
- (2) anywhere in Indiana, if the community mental health center is organized to provide services to at least two (2) counties, including the county executive's county; or
- (3) in an adjacent state, if the center is organized to provide services to Indiana residents, including residents in the county executive's county.

If a community mental health center is organized to serve more than one (1) county, upon request of the county executive, each county fiscal body may appropriate money annually from the county's general fund to provide financial assistance for the community mental health center.

(b) Assistance authorized under this section shall be used for the following purposes:

- (1) Constructing a community mental health center.
- (2) Operating a community mental health center.

(c) The appropriation from a county authorized under subsection (a) may not exceed the following:

- (1) For 2004, the product of the amount determined under section 2(b)(1) of this chapter multiplied by one and five hundred four thousandths (1.504);
- (2) for 2005 and each year thereafter, the product of the amount determined under section 2(b)(2) of this chapter for that year multiplied by one and five hundred four thousandths (1.504).

(d) If a county did not provide financial assistance under this chapter before January 1, 2009, the county may propose a financial assistance budget for an ensuing calendar year. The county shall refer its proposed budget for the first calendar year to the department of local government finance before the tax levy is advertised. The budget for the first calendar year is subject to

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review and approval under IC 6-1.1-18.5-10."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 388 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 9, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 388, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

AVERY, Chair

Committee Vote: yeas 16, nays 0.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 388 be amended to read as follows:

Page 2, between lines 32 and 33, begin a new paragraph and insert:
 "SECTION 2. IC 6-1.1-20.6-7, AS AMENDED BY P.L.146-2008, SECTION 222, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 7. (a) This subsection expires January 1, 2009. In the case of a credit authorized under section 6 of this chapter or provided by section 6.5(a) or 6.5(b) of this chapter for property taxes first due and payable in a calendar year:

(1) a person is entitled to a credit against the person's property tax liability for property taxes first due and payable in that calendar year attributable to:

(A) the person's qualified residential property located in the county, in the case of a calendar year before 2008; or

(B) the person's homestead. (as defined in IC 6-1.1-20.9-1) property located in the county, in the case of a calendar year after 2007 and before 2009; and

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(2) the amount of the credit is the amount by which the person's property tax liability attributable to:

(A) the person's qualified residential property, in the case of a calendar year before 2008; or

(B) the person's homestead property, in the case of a calendar year after 2007 and before 2009;

for property taxes first due and payable in that calendar year exceeds two percent (2%) of the gross assessed value that is the basis for determination of property taxes on the qualified residential property (in the case of a calendar year before 2008) or the person's homestead property (in the case of a calendar year after 2007 and before 2009) for property taxes first due and payable in that calendar year, as adjusted under subsection (b).

(b) This subsection expires January 1, 2009. This subsection applies to property taxes first due and payable in 2008. The amount of a credit to which a person is entitled under subsection (a) in a county shall be determined without including a taxpayer's property tax liability for tuition support. Notwithstanding any other provision of this chapter, a school corporation's tuition support property tax levy collections may not be reduced because of a credit under this chapter.

(c) This subsection ~~applies to property taxes first due and payable in~~ **expires January 1, 2009**. A person is entitled to a credit against the person's property tax liability for property taxes first due and payable in 2009. The amount of the credit is the amount by which the person's property tax liability attributable to the person's:

(1) homestead exceeds one and five-tenths percent (1.5%);

(2) residential property exceeds two and five-tenths percent (2.5%);

(3) long term care property exceeds two and five-tenths percent (2.5%);

(4) agricultural land exceeds two and five-tenths percent (2.5%);

(5) nonresidential real property exceeds three and five-tenths percent (3.5%); or

(6) personal property exceeds three and five-tenths percent (3.5%);

of the gross assessed value of the property that is the basis for determination of property taxes for that calendar year.

(d) This subsection ~~applies to property taxes first due and payable in~~ **expires January 1, 2009**. Property taxes imposed after being approved by the voters in a referendum or local public question shall not be considered for purposes of calculating a person's credit under this section.

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(e) This subsection ~~applies to property taxes first due and payable in~~ **expires January 1, 2009**. As used in this subsection, "eligible county" means only a county for which the general assembly determines in 2008 that limits to property tax liability under this chapter are expected to reduce in 2010 the aggregate property tax revenue that would otherwise be collected by all units of local government and school corporations in the county by at least twenty percent (20%). Property taxes imposed in an eligible county to pay debt service or make lease payments for bonds or leases issued or entered into before July 1, 2008, shall not be considered for purposes of calculating a person's credit under this section.

SECTION 3. IC 6-1.1-20.6-7.5, AS ADDED BY P.L.146-2008, SECTION 223, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 7.5.(a) A person is entitled to a credit against the person's property tax liability for property taxes first due and payable after ~~2009: 2008~~. The amount of the credit is the amount by which the person's property tax liability attributable to the person's:

- (1) homestead exceeds one percent (1%);
- (2) residential property exceeds two percent (2%);
- (3) long term care property exceeds two percent (2%);
- (4) agricultural land exceeds two percent (2%);
- (5) nonresidential real property exceeds three percent (3%); or
- (6) personal property exceeds three percent (3%);

of the gross assessed value of the property that is the basis for determination of property taxes for that calendar year.

(b) This subsection applies to property taxes first due and payable after ~~2009: 2008~~. Property taxes imposed after being approved by the voters in a referendum or local public question shall not be considered for purposes of calculating a person's credit under this section.

(c) This subsection applies to property taxes first due and payable after ~~2009: 2008~~. As used in this subsection, "eligible county" means only a county for which the general assembly determines in 2008 that limits to property tax liability under this chapter are expected to reduce in 2010 the aggregate property tax revenue that would otherwise be collected by all units of local government and school corporations in the county by at least twenty percent (20%). Property taxes imposed in an eligible county to pay debt service or make lease payments for bonds or leases issued or entered into before July 1, 2008, shall not be considered for purposes of calculating a person's credit under this section."

Page 4, between lines 8 and 9, begin a new paragraph and insert:

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"SECTION 6. [EFFECTIVE UPON PASSAGE] The department of local government finance may adopt temporary rules under this SECTION in the manner provided under IC 4-22-2-37.1 for the adoption of emergency rules to implement IC 6-1.1-20.6-7 and IC 6-1.1-20.6-7.5, both as amended by this act. The rules may include authority for a county auditor to reconcile any difference in the tax liability imposed on property in a year that results from the amendments made to IC 6-1.1-20.6-7 and IC 6-1.1-20.6-7.5 by this act on a separate billing for an installment under IC 6-1.1-7-7 or 6-1.1-22-9 or a reconciling statement under IC 6-1.1-22.5-12. Notwithstanding IC 4-22-2-37.1, a temporary rule adopted under this SECTION expires on the earliest of the following dates:

- (1) The date specified in the temporary rule.**
- (2) The date on which another temporary rule adopted under this SECTION or a permanent rule adopted under IC 4-22-2 supersedes or repeals the earlier adopted temporary rule.**
- (3) December 1, 2010."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 388 as printed March 17, 2009.)

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